

ORDINANCE NO. 3779AN ORDINANCE OF THE COUNCIL OF THE CITY OF
BURBANK AMENDING SECTION 10-1-931 OF THE BURBANK
MUNICIPAL CODE RELATING TO THE ENACTMENT OF MILLS
ACT CONTRACTS FOR PROPERTY TAX RELIEF AND FOR
THE PRESERVATION OF HISTORIC PROPERTY.

City Attorney's Synopsis

This Ordinance amends Section 10-1-931 of the Burbank Municipal Code to implement the Mills Act, which is set forth in California Government Code Sections 50280 through 50290, and California Revenue and Taxation Code Section 1161. The Mills Act authorizes cities to allow property owners of qualified historic properties to enter into Mills Act contracts for property tax relief and for the preservation of those historic properties. Each Mills Act contract would require separate City Council approval. This Ordinance imposes a limit of three Mills Act contracts per year or a limit on the estimated unrealized property tax revenue loss at \$30,000 per year. Initially, no processing fees would be imposed to help foster the economic incentive to preserve buildings of historic significance. However, the City Council would be able to impose fees on a case by case basis through the separate contract approval if deemed necessary.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. The City Council finds and determines that entering into Mills Act contracts, as hereinafter defined, is an incentive for owners of designated historic resources to rehabilitate, maintain, and preserve those properties.

B. The City Council further finds that the preservation of these properties will assist in restoring, maintaining, and preserving historic structures of merit; support the goals and objectives in the Land Use Element of the City General Plan concerning the preservation of historically and architecturally significant structures; and foster economic incentives to preserve buildings of historic significance.

C. The City Council held a duly noticed public hearing on the Ordinance on March 30, 2010 and considered the report of the Community Development Director, the recommendation of the Heritage Commission, testimony by all interested persons; and all other evidence presented at the hearing.

c: A. Klotzsche, M. Vander Borcht-Planning; T. Hirsch-L&C; J. Wilson-Publish; J. Santos-BMC

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

1. Title 10, Division 6 of the Burbank Municipal Code is amended to add a new section, Section 10-1-931: entitled, Historic Preservation Incentives.

10-1-931: HISTORIC PRESERVATION INCENTIVES:

A: PURPOSE.

The purpose of this Section is to implement the Mills Act which is set forth in California Government Code Sections 50280 et seq., and California and Revenue Code Section 1161, and as those sections may be amended from time to time (hereafter collectively, the "Mills Act") in order to establish a process to enter into contracts with owners of property that has previously been designated as a qualified historic, as defined in the Mills Act, for property tax relief and for the preservation of those historic properties. The City has imposed a limit of three Mills Act contracts per year or a limit on the estimated unrealized property tax revenue loss at \$30,000 per year; however, the Council may waive the limitation in any specific case or Council may make a contract effective the following year.

B: APPLICATION REQUIREMENTS.

1. Application. A property owner shall complete an application form provided by the Director. The application shall include, but not be limited to, the following: a) Historic Property Description; b) detailed proposed preservation work plan narrative which describes the improvements, maintenance and preservation over the life of the contract (which may be Exhibit B to the contract); c) grant deed (with legal description of property which may be Exhibit A to the contract) and property ownership statement; d) Historic Property Inspection report confirming how the work plan is consistent with the historic designation; e) estimated property tax savings; f) estimated cost of improvements and estimated timing for completion of improvements (which also may be used as Exhibit C to the contract); g) photographs of property. The Director may set deadlines for submittal of applications in order to provide the County Assessor's Office with ample time to process the contract. In the event prioritization ranking is necessary, the Director reserves the right to create such procedures.
2. Fees. The City may charge a fee to recoup all Mills Act contract processing and administrative costs if specified in the Burbank Fee Resolution or if specified in any Mills Act contract.
3. City Review and Heritage Commission recommendation. Once the application is complete, the Director shall, after providing the property owner with at least fifteen (15) days notice, request the Heritage Commission to review the application, and to make recommendations to

the City Council on the merits of the proposed application. The Commission may propose modifications to the work plan as it deems necessary.

4. City Council Action. The Director shall request Council consideration of the Mills Act contract, after providing the property owner with at least fifteen (15) days notice. Council may in its sole and absolute discretion authorize the Director's execution of the Mills Act contract.

C: PROVISIONS IN MILLS ACT CONTRACTS.

1. The required provisions of a Mills Act contract between the City and the property owner shall be those specifically required by the Mills Act, as well as any other requests by the City Council, which may include the following:
 - a. Term: The term of the contract shall be a minimum of ten (10) years. On the anniversary date of the contract, or such other date as specified in the contract, a year shall be automatically added to the initial term of the contract unless a notice of nonrenewal is given to the owner at least sixty (60) days prior to the renewal date. In the event the property owner chooses to terminate the contract, then the property owner shall provide the Director with a notice of nonrenewal at least ninety (90) days prior to the renewal date.
 - b. Verification of Compliance with Work Plan. The owner will agree to permit periodic examination of the interior (if applicable) and exterior of the property, as may be necessary to verify the owner's compliance with the contract. Owner will agree to allow City to photograph the historic property. Owner further will agree to provide any information requested to ensure compliance with the contract. The City is not obligated to inspect, and annual self certification of compliance may be required as provided for in subsection (d).
 - c. Recordation of Contract. The contract shall be recorded by the Los Angeles County Recorder's office and shall be binding on all successors-in-interest of the owner. The City Clerk shall record the contract, at applicant's cost, no later than twenty days (20) days after the City enters into the contract.
 - d. Notice to State. The Owner shall provide written notice of the contract to the State of California Office of Historic Preservation within six months of entering into the contract.
 - e. Annual Report Required. The contract shall require the owner to file an annual report, on its progress of implementing the work plan or

restoration or rehabilitation with the Director until the work has been completed to the satisfaction of the Director. Thereafter, during the term of the contract, on an annual basis, the owner shall provide a report on the maintenance of the property, which report may require documentation of the owner's expenditures and actions taken to maintain the qualified historic property.

- f. Cancellation of Contracts. The contract shall expressly provide for the City's authority to cancel the contract if the City determines that the owner has breached the contract either by his or her failure to restore or rehabilitate the property in accordance with the approved plan; by the failure to maintain the property as restored or rehabilitated; or if the owner has allowed its property to deteriorate to the point that it no longer meets the standards for a qualified historical property. No contract can be cancelled until the Council has given notice of, and held a public hearing on, the matter. Notice shall be mailed to the owner and published at least once in a newspaper of general circulation in accordance with the Mills Act.
- g. Alternative to Cancellation if breach. As an alternative to cancellation, the City may bring an action for specific performance or other action necessary to enforce the contract.
- h. Cancellation Fee. The contract may also reiterate the Mills Act requirement of a cancellation fee. If the City cancels the contract, the owner shall pay the State of California a cancellation fee of twelve and one-half percent (12 1/2%) of the current market value of the property, as determined by the county assessor as though the property was free of the contractual restriction.
- i. Force Majeure Cancellations. The contract may require that in the event preservation, rehabilitation, or restoration of the qualified historic property becomes infeasible due to damage caused by natural disaster (e.g., earthquake, fire, flood, etc.), the City may cancel the contract without requiring the owner to pay the State of California the above-referenced cancellation fee as a penalty subject to concurrence by the County Assessor. However, in this event, a contract may not be cancelled by the City unless the City determines, after consultation with the State of California Office of Historic Preservation, in compliance with Public Resources Code Section 5028, that preservation, rehabilitation, or restoration is infeasible.
- j. Work Plan Amendments including Improvements or Schedule. The contract may provide that modifications to the approved work plan require review and approval by the Heritage Commission.

D. MILLS ACT CONTRACT.

The Director and the City Attorney shall prepare and maintain a current Mills Act contract with all required provisions specified by state law and this section.

2. This Ordinance is exempt from the California Environmental Quality Act in accordance with Section 15331 Class 31 which exempts projects involving Historical Resource Restoration/Rehabilitation consisting of projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.

3. If any provision of this Ordinance or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

4. The City Clerk shall certify to the passage of this Ordinance and cause the City Attorney Synopsis of this Ordinance to be published once in a newspaper of general circulation within fourteen (14) days of adoption, published and circulated in the City of Burbank, California.

5. This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption.

PASSED AND ADOPTED this 6th day of April, 2010.

s/Gary Bric

Gary Bric

Mayor of the City of Burbank

Attest:

s/Margarita Campos

Margarita Campos, CMC, City Clerk

Approved as to Form and Legal Content
Dennis A Barlow, City Attorney

By: s/Mary F. Riley
Mary F. Riley, Sr. Asst. City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Margarita Campos, CMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 3779 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 6th day of April, 2010, by the following vote:

AYES: Council Members Golonski, Gordon, Reinke, Talamantes and Bric.

NOES: Council Members None.

ABSENT: Council Members None.

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 14th day of April, 2010.

s/Margarita Campos
Margarita Campos, CMC, City Clerk